

State of California
Regional Water Quality Control Board
San Diego Region

EXECUTIVE OFFICER SUMMARY REPORT
November 9, 2005

ITEM: 12

SUBJECT: Consideration of a Resolution Delegating Certain Authorities to the Executive Officer and Subordinate Staff. The Board will consider renewing its previous delegations of authorities pursuant to California Water Code Section 13223. (*Art Coe*)

PURPOSE: Consider the adoption of Resolution No. R9-2005-0271. This item will allow the Regional Board to review and consider updating current delegations of authority.

PUBLIC NOTICE: This tentative action was included in the agenda notice for the November 9, 2005 Regional Board meeting. No additional notice is necessary.

DISCUSSION: Section 13223(a), Division 7, of the California Water Code (CWC) provides that a regional water quality control board may delegate any of its powers and duties to its executive officer, except (1) the promulgation of any regulations; (2) the issuance, modification or revocation of any water quality control plan, water quality objectives or waste discharge requirement; (3) the issuance, modification or revocation of any cease and desist order; (4) the holding of any hearing on water quality control plans; and, (5) the application to the attorney General for judicial enforcement except where specific delegation has been made in a cease and desist order or when a need for immediate action results in a request to correct conditions of pollution or nuisance pursuant to CWC Section 13002(c) and Sections 13304 and 13340. The Regional Board's current delegations are contained in two resolutions. Resolution 90-52 delegates to the Executive Officer all of the powers and duties of the Board under Division 7 of the CWC except those described above. Resolution 79-58 specifically delegates to the Executive Officer the authority to refer a challenge to a lead agency's inadequate or inappropriate environmental document to the Attorney General.

In addition to the delegations made by the Board, the Executive Officer, in the course of day-to-day business, has made additional delegations of authority to subordinate staff. Most notably, the

delegated authorities under Division 7 of the CWC have been delegated to the Assistant Executive Officer during times when the Executive Officer is absent from the office.

Tentative Resolution No. R9-2005-0271 would renew the Board's previous delegations and combine them into a single resolution. The most significant change is the addition of language providing for the Executive Officer to re-delegate authority to the Assistant Executive Officer when deemed necessary to preserve the integrity of a separation of functions during an adjudicatory proceeding.

KEY ISSUES: Does the Regional Board want to renew the previous delegations of authority to the Executive Officer?

LEGAL CONCERNS: None identified at this time.

SUPPORTING DOCUMENTS:

1. Resolution 79-58
2. Resolution 90-52
3. Memorandum dated December 12, 1995 re-delegating authorities to the Assistant Executive Officer

RECOMMENDATION(S): Adopt Resolution No. R9-2005-0271.